REMARKS

Applicants have amended Claim 8 to specifically claim the subject matter of Claim 1 and respectfully submit no new matter has been added by the present amendment.

Election/Restrictions

Applicants traverse the Examiner's statements with regard to the election with traverse filed on March 25, 2004. Applicants re-submit as previously stated that a search of the claims could be performed without undue burden by the Examiner as the claimed compound is encompassed in each claim. Applicants further submit, despite the Examiner's contention, that even if a single search could not be performed, performing more than one search does not create any undue burden for the Examiner. Accordingly, Applicants request the election of March 25, 2004 be treated as an **election with traverse**.

Claim Rejection - 35 U.S.C. § 103(a)

Claims 8, 10-18 and 21-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ostoja-Starzewski, et al. (U.S. Patent No. 6,353,064). Applicants respectfully traverse this ground of rejection.

Applicants submit that "in order to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claims limitations. The teachings or suggestions to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicants' disclosure." See MPEP § 2142, citing In re Vaeck, 947 F.2d 488, 20 USPQ 2d. 1438 (Fed. Cir. 1991).

Applicants respectfully submit Ostoja, et al. does not render the present invention obvious. The present invention is directed to a process for the homopolymerization or copolymerization of one or more olefins, cycloolefins, isoolefins, alkynes or diolefins monomers comprising the step of admixing one or more monomer in the presence of at least one transition metal compounds having at

least two ligands and at least one donor-acceptor interaction between the ligands, wherein at least one ligand is a fluorenyl ligand and the transition metal compound has at least one alkyl or aryl group on at least one acceptor atom, and optionally one or more co-catalyst, wherein the process is carried out at a temperature from about –60 to about +250°C.

As noted on page 3, according to the present invention, it is possible to provide transition metal compounds which can be used for the polymerization of olefins to give elastomers having high molar masses both in the presence of small amounts of co-catalyst and at high temperatures.

In a comparison of Ostoja, et al. Example 1 (polymerization of ethen) and Examples 7 and 8 (polymerization of ethen) it is noted that the mass value in the present invention is 3887 and 2244 kg/mol respectively, when compared to 402 kg/mol in Ostaja, et al. As evidenced by the teaching of Ostoja, et al. and the cited reference, there is no suggestion or motivation in Ostoja, et al. to use a special catalyst with the specific substitution patters as claimed to provide polymers with a high mass. Accordingly, Applicants request withdrawal of this ground of rejection.

Respectfully submitted,

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